IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 24672 of 2004

Between:

Khaja Nizamuddin, S/o. Khaja Moinuddin,
R/o. H.No. 8-1-366/A/106, Fathima Nagar, Rathi Bowli, Hyderabad.

..... PETITIONER

AND

1 The A.P. Central Power Distribution Company Limited,

Rep. by its Member - Secretary, Vidyuth Sowda, Khairathabad, Hyderabad.
2 The Superintendenting Engineer/D.E. (Assessments), Mint Compound, Hyderabad.
3 The Assistant Divisional Engineer (Elect.) and Provisional Assessing Officer, D-IV, City-VII, A.P. Central Power Distribution Company Limited,

Rethi Bowli, Hyderabad.
4 The Circle Inspector of Police, Team-II, Police Station, Vigilance & Anti-Power /Theft Squad, Vidyuth Sowda, Khairathabad, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in demanding me to pay a sum of Rs.49,763/- vide Provisional Assessment Notice in Case No. HDC/DO-4/00658/DP-1/04, dt. 13-12-2004 as bad, arbitrary, illegal and violative of principles of natural justice and consequently direct the Respondents not insist for payment of the said amount and not to initiate any action against me in respect of the electricity connection vide S.C.No.S9-9638.

Counsel for the Petitioner:MR.C.DAMODHAR REDDY

Counsel for Respondents 1 to 3: MR.Ravindra Kumar (SC FOR APTRANSCO)

The Court at the stage of admission made the following ORDER:

The petitioner is a domestic consumer of electricity. He was issued a letter dated 14-12-2004, wherein it was alleged that he has resorted to the acts of pilferage and the power so pilfered is valued at Rs.49,763/-. The petitioner was required to pay a sum of Rs.24,882/-, in case he wants the continuance of power supply. The petitioner challenges the same.

Heard learned counsel for the petitioner and learned standing counsel for the respondents.

The letter dated 14-12-2004 issued to the petitioner is in the form of an order of provisional assessment. The actual liability of the petitioner, on the allegation of pilferage can be decided only when an order of final assessment is passed. The petitioner alleges that under threat of disconnection and arrest, he paid a sum of Rs.8,294/- on 27-12-2004 and that the respondents have passed an order on 27-12-2004 directing him to pay two such instalments on 27-01-2005 and 27-02-2005.

In Writ Appeal Nos.452 and 477 of 2004, a Division Bench of this Court held that a consumer cannot be fastened with any liability unless an order of final assessment is passed.

For the foregoing reasons, the writ petition is allowed and the letter dated 14-12-2004, in so far as it directs the petitioner to pay a sum of Rs.24,882/-, as a condition precedent for continuance of supply, is set aside. The petitioner shall, however, be liable to pay the regular consumption charges. His liability under the impugned letter shall be decided only through an order of final assessment. The amount of Rs.8,294/- paid by the petitioner shall be subject to the result of the order of final assessment. No order as to costs.

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29-12-2004

kdl

To

1 The Member-Secretary, A.P. Central Power Distribution Company Limited,

Vidyuth Sowda, Khairathabad, Hyderabad.
2 The Superintendenting Engineer/D.E. (Assessments), Mint Compound, Hyderabad.
3 The Assistant Divisional Engineer (Elect.) and Provisional Assessing Officer, D-IV, City-VII, A.P. Central Power Distribution Company Limited,

Rethi Bowli, Hyderabad.
4 The Circle Inspector of Police, Team-II, Police Station, Vigilance & Anti-Power /Theft Squad, Vidyuth Sowda, Khairathabad, Hyderabad.

5 Two CD copies.